

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

ORDER

On October 2, 2015, Plaintiff Kerry McBroom brought this action to obtain judicial review of a final decision of Defendant Commissioner of Social Security denying Plaintiff's claims for social security disability benefits. See 42 U.S.C. § 405(g). On January 30, 2017, the court remanded the cause to the Commissioner pursuant to sentence four of § 405(g) for further administrative proceedings. By order filed April 10, 2017, the court awarded attorney's fees and expenses in the total amount of \$5,399.07 to Plaintiff's counsel pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d).

This matter is before the court on Plaintiff's motion for attorney's fees filed May 24, 2019, and amended on June 3, 2019. Counsel moves for an order awarding an attorney's fee of \$42,689.75 under the Social Security Act, 42 U.S.C. § 406(b).¹ On June 20, 2019, the Commissioner filed a response informing the court that he has no objection to Plaintiff's motion for fees. The Commissioner notes, however, that the fees previously awarded under § 2412 should be remitted to Plaintiff by counsel.

² The fee requested constitutes 25% of the past due benefits awarded to Plaintiff, in accordance with the fee agreement between Plaintiff and counsel and as permitted by 42 U.S.C. § 406(b). Plaintiff received past benefits in the amount of \$170,759.00.

See Gisbrecht v. Barnhart, 535 U.S. 789, 796 (2002). Counsel represents that, once the fees requested herein are approved, he will refund the \$5,399.07 attorney's fee previously awarded to Plaintiff.

Accordingly, Plaintiff's motion for fees under 42 U.S.C. § 406(b) is **granted** in the amount of \$44,402.00. Counsel for Plaintiff is directed to promptly refund to Plaintiff the previously awarded attorney's fee of \$5,399.07.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Senior United States District Judge

Columbia, South Carolina

July 19, 2019